

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

November 20, 2003

A meeting of the Board of Environmental Protection was held on Thursday, November 20, 2003, at the Holiday Inn / Ground Round facility in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 10:30 a.m. with the following individuals present:

Board: Ernest Hilton, Nancy Anderson, Irving Faunce, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson and Matt Scott

Absent: Nancy Ziegler

Note: There is one vacancy.

Board member Jean T. Wilkinson departed at approximately 12:30 p.m.

<u>Staff:</u>	<u>Bureau of Land and Water Quality</u>	Dana Murch
	<u>Bureau of Land and Water Quality</u>	Michael Demarest
	<u>Bureau of Land and Water Quality</u>	Pam Parker

Others: Dawn Gallagher, Commissioner
Peggy McCloskey, Assistant Attorney General
Cynthia Bertocci, Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 3:30 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Commissioner Gallagher reported the following:

Budget - The 112 million-dollar short fall for Medicaid was recently reduced to 22 million dollars as a result of a cost savings initiative. However, State agencies expect to receive additional requests for budget cuts to resolve the remaining Medicaid shortfall.

New DEP Senior Staff - With the recent appointment of David Littell as the Department's Deputy Commissioner and Steve Davis as Director for the Bureau of Remediation and Waste Management, the Department's senior staff is now in place.

Legislative Committee Briefing – The Department will participate in a monthly update meeting tomorrow before the Joint Standing Committee on Natural Resources. One of the topics that will be briefed is the "Discharges from Vessels" report, which has received some news coverage. The report includes proposals for a registration program for vessels of a specific passenger size, a treatment requirement, and designation of no discharge zones. The initiative would address discharges within 3 miles of the Maine coastline.

Additionally, staff will report on its work with a stakeholder group to develop a plan for the collection and recycling of cathode ray tubes (CRTs). CRT's are expected to be banned from landfills by 05/06. Ultimately a take-back requirement will be imposed on the manufacturer; however, at the outset of this program, the consumer and manufacturer share dual responsibility. The proposed plan includes an advanced recovery fee attached to the purchase of a television. This fee may be between 7 and 9 dollars. Municipalities would receive the money to fund the disposal and storage costs associated with this requirement.

Lastly, the household hazardous waste report that was submitted last year proposes a 0.20 per gallon fee to fund collection and disposal of paint wastes. The Legislature is expected to review this topic during the next regular session.

Legislative Bills - The department's only submittal this session will be the Omnibus bill; which is intended to correct some minor errors.

Climate Change - Stakeholders participating in the development of the Climate Change Action Plan have conducted their first meeting. The task of the group is to develop a plan that will meet the greenhouse gas reduction goals specified in statute. A report is due by July 2004. The task force is compromised of 40 stakeholders who are divided into 4-5 subgroups, each tasked with the collection of specific target information. Additionally a technical group will evaluate the data collected by each sub group and develop a draft recommended plan to meet the greenhouse gas reduction goals.

BEP Workshop -The Board's executive analyst attended a recent senior management team meeting to discuss means of keeping the Board apprised of various Department initiatives, including the policy context for those initiatives. It was determined that an overview of air issues to include upcoming rulemaking initiatives would be a good starting point, and a January timeframe was proposed for this briefing.

Questions: Board member Ernest Hilton asked for information on the LNG (liquefied natural gas) terminals proposed for Harpswell and Searsport.

Commissioner Gallagher advised that staff has held an introductory meeting with the potential applicant for the Harpswell project. No details on the scope of the project were provided. Additionally, the vote by Harpswell residents has been postponed until January 2004. When either project is ready to move forward, staff will hold a multi-media pre-application meeting with project representatives to review permit requirements.

Follow-up question: Is the LNG project likely to fall under the Board's jurisdiction?

If the projects are likely to meet the standards for Board jurisdiction, they will be brought to the Board for consideration. Peggy McCloskey, Assistant Attorney General, offered her understanding that the opponents to the project are likely to seek Board jurisdiction over the applications.

Board member Plummer requested that the January workshop/briefing on air issues include information related to activities at the regional and federal level by organizations such as NESCAUM.

Commissioner Gallagher offered that work of the New England Governors and Eastern Canadian Primiers related to new source review would also be added to January's informational session.

Board member Irving Faunce asked about the status of the Hannum court remand.

Peggy McCloskey advised that the Board's Executive Analyst has been working with the Attorney General's Office and Department staff to identify procedural options. Ms. McCloskey will hold a conference call with the parties to seek their input on various procedural options, which will then be brought to the Board for consideration..

Board member Littlefield asked if participation in the initial proceeding would be a factor considered when assessing process options.

Peggy McCloskey advised that Board member participation in the initial proceeding would be a consideration when evaluating procedural options.

B. CHAIRMAN'S COMMENTS: None

C. EXECUTIVE ANALYST COMMENTS: MDIFW application for a Public Boat Launch at Mere Point: A pre-hearing conference was held on November 18, 2003.

D. BOARD CALENDAR: Reviewed - noted cancellation of 1/1/04 meeting

E. DEPARTMENTAL ORDERS: Reviewed

F. EXECUTIVE SESSION: None

III. Regular Agenda

1. CHINA LAKE / WATER LEVEL (decision)

The Board voted (4-3-1-1) on a motion to direct staff to modify the draft proposed order to include additional detail in the findings and conclusions. The vote was taken pursuant to 38 M.R.S.A. Section 341-D, 840 and 06-096 CMR Chapter 2 and Chapter 30.

Board members Ernest Hilton, Katharine Littlefield, Virginia Plummer and Richard Wardwell supported the motion. Board members Irving Faunce, Jean T. Wilkinson and Matt Scott opposed. Board member Nancy Anderson recused. Board member Nancy Ziegler was absent. There is one vacancy.

II CONSENT AGENDA ITEMS

The Board voted (7-0-0-2) on a motion to approve as presented consent agenda items 1,2,3,4,5,7,8.

Board members Ernest Hilton, Irving Faunce, Nancy Anderson, Katharine Littlefield, Virginia Plummer, Richard Wardwell and Matt Scott voted to support the motion. Board members Nancy Ziegler and Jean T. Wilkinson were absent. There is one vacancy.

1. GEIGER BROS., Lewiston – Administrative Consent Agreement and Enforcement Order (BRWM)
2. DURATHERM WINDOW CORPORATION, Vassalboro – Administrative Consent Agreement and Enforcement Order (BRWM)
3. LARRY G. SUKEFORTH, Washington – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
4. U.R. ILVONEN EARTHMOVING, INC., Cushing – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
5. ROBERT T. MCKIM, Shapleigh – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
7. MICHAEL MINARDI and BARBARA MINARDI, Rome – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
8. FRANKLIN LIGHT PRESERVATION, INC., Friendship – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)

The Board voted (7-0-0-2) on a motion to approve item 6 the draft order of Safety Kleen in Leeds for a Hazardous Waste Storage Facility Transfer and Renewal License as presented and to post the draft license to 45 day public comment. The vote was taken pursuant to 38 M.R.S.A. sections 341-D, 1301 et seq., 1319 et seq., and 06-096 CMR 850-857.

6. SAFETY-KLEEN, Leeds / Hazardous Waste Storage Facility Transfer and Renewal

Board members Ernest Hilton, Irving Faunce, Nancy Anderson, Katharine Littlefield, Virginia Plummer, Richard Wardwell and Matt Scott voted to support the motion. Board members Nancy Ziegler and Jean T. Wilkinson were absent. There is one vacancy.

III. Regular Agenda

2. JAMES FAMILY TRUST (appeal of Department transfer and permit for reduced seasonal discharge of waste)

The Board voted (7-0-0-2) on a motion to deny the appeal of Margaret Buxton-Babcock and affirm the Department Order W-002492-5A-B-Z granting a conditional permit for a seasonal overboard discharge and to direct staff to amend paragraph 6 B of the Order to read as follows:

Conditional discharge permits shall expire six months after an alternative method of waste water disposal is determined to be available to the permittee; and permittee is offered a grant of money for the Department's share of the cost of constructing an alternative waste water disposal system; or (b) Five years after the date of issuance, if (a) above is not applicable.

The vote was taken pursuant to 38 M.R.S.A. sections 341-D, 414-A (1-B)(C), 06-096 CMR Chapters 2 and 596.

Board members Ernest Hilton, Irving Faunce, Nancy Anderson, Katharine Littlefield, Virginia Plummer, Richard Wardwell and Matt Scott voted to support the motion.

Board members Nancy Ziegler, Jean T. Wilkinson were absent. There is one vacancy.

3. ROBERT CRAGIN (appeal of Department's conditional permit for seasonal discharge of waste)

The Board voted (6-1-0-2) on a motion to deny the appeal of Mr. Cragin and affirm the Commissioner's decision in Department Order W-003312-5A-C-Z for a conditional seasonal overboard discharge permit with a limit of 250 gallons maximum daily flow. The vote was taken pursuant to 38 M.R.S.A. sections 341-D, 414-A (1-B)(C), 06-096 CMR Chapters 2 and 596.

Board members Ernest Hilton, Irving Faunce, Nancy Anderson, Virginia Plummer, Richard Wardwell and Matt Scott voted to support the motion. Board member Katharine Littlefield voted to oppose. Board members Nancy Ziegler and Jean T. Wilkinson were absent. There is one vacancy.